

## FREQUENTLY-ASKED QUESTIONS REGARDING RESTRICTIONS ON LOBBYING

These frequently asked questions and answers (FAQs) are intended to provide guidance to organizations that receive assistance from CNCS on how to provide appropriate information about the impact of CNCS's programs while avoiding impermissible lobbying. These FAQs are meant to accompany the [Compilation of Restrictions on Lobbying by CNCS Financial Assistance Recipients](#). Please note that this document doesn't discuss the illegality of using federal funds for partisan political activities.

### QUESTIONS APPLICABLE TO ALL CNCS GRANTEES

#### **What is "lobbying" in the context of these restrictions?**

For purposes of the restrictions that arise because you accept CNCS funding, "lobbying" generally can refer to—

- An attempt to influence the decision-making of an elected official on a legislative matter, or
- A request for others to contact an elected official in support of or opposition to a legislative matter, or
- An attempt to influence an agency, Congress, or staff member of Congress on federal awards, such as a contract, grant, loan, or cooperative agreement.

In context, these restrictions can be broader or more limited. You can find more detailed information in the [Compilation of Restrictions on Lobbying by CNCS Grantees and Financial Assistance Recipients](#).

**Our organization's annual report shows the value of national and community service and is designed, in part, to persuade our community to support our program and other programs supported by CNCS. Is this permitted?**

Yes. The restrictions on legislative lobbying do not apply to efforts to educate the general public about national service programs, provided that the materials do not include a request to affect pending legislation.

**We're hosting a conference call related to our CNCS grant that's designed to get more organizations involved in service. During the call, a participant asks how to get volunteers involved in a lobbying effort. How should we respond?**

You should remind the participants of the purpose of the call (i.e., to get more people and organizations involved in national service addressing community needs) and that it would be inappropriate to use the call to discuss lobbying. You may suggest that such conversations be handled separately, and remind the participants any such separately held conversations should not be charged to federal or matching funds.

**How can I properly use CNCS funding to interact with elected officials? I am an employee of a CNCS-funded program and my compensation is directly charged (in whole or in part) to our CNCS grant (as either Federal share or matching funds).**

Your program may host an elected official for informational and educational purposes, such as inviting the elected official for an informational tour of the project, a coordinated grant announcement, an opportunity to hear member/volunteer impact stories (but see the specific questions below applicable to AmeriCorps members and Senior Corps volunteers), or other presentations of factual information related to your program. Your presentation must remain informational and focus on a topic directly related to your organization's service under a grant program, including your community impact. You may not use federal or matching funds to make any legislative requests.

**What if, during such a visit by an elected official, the legislator makes an unexpected announcement that he or she has decided to co-sponsor legislation to support national service?**

Again, your organization may properly host an informational site visit for an elected official focusing on topics directly related to your organization's service under a CNCS grant program. The fact that the elected official independently, and without any prompting or prior coordination by you, decided to announce that he or she is co-sponsoring legislation does not make the presentation unallowable. However, you should not respond to or elaborate on the announcement during the event.

**What if an elected official tells me that he or she wants to arrange a visit to announce their sponsorship or support of a legislative action that would benefit CNCS-funded programs?**

You should advise the elected official of your organization's need to ensure that it does not engage in prohibited lobbying activities, and that such a staged announcement may create the impression that your program is engaged in lobbying. Your organization can participate in the announcement, but no costs can be charged to your grant, and you may not reference that your organization is a recipient of CNCS funding.

**I work for a nonprofit organization or institution of higher education that receives CNCS grant funds. What are the restrictions on legislative lobbying under our CNCS grant awards? For instance, may I use grant funds to visit elected officials in Washington, D.C., our State capitol or elsewhere?**

The threshold question is whether the costs of such a trip would be a reasonable and necessary for the performance of your CNCS grant award, and be allocable to the award, under OMB Cost Principles ([2 C.F.R. Part 200](#), Subpart E). Any cost which was specifically included within your approved grant budget has been pre-approved as being reasonable and necessary. However, the burden is on the grantee to demonstrate that any particular cost is allowable according to the Cost Principles, and CNCS makes the final determination. That determination is going to depend on a number of factors, such as how much it costs to make the trip, and whether or not the trip is in response to a specific invitation. While a very low-cost trip to a local office of an elected official will likely be allowable, an expensive trip to Washington D.C. that was initiated by your organization will almost never be allowable. It's always best to discuss any question with your CNCS program officer or grants officer.

Beyond the threshold questions, OMB Cost Principles place extra restrictions on nonprofits and educational institutions. Those extra restrictions specifically disallow costs for influencing enactment or modification of any pending federal or state legislation, including legislative liaison activities. *See* [2 C.F.R. §200.450](#). Keep in mind that these restrictions apply generally, not just to travel to visit legislative officials. Excepted from these restrictions are:

- Factual presentations on topics related to the performance of a grant in response to a documented request made by the Member of Congress or legislative body;<sup>1</sup>
- Any lobbying in order to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the nonfederal entity's authority to perform the grant;<sup>2</sup>
- Any activity specifically authorized by statute to be undertaken with funds from the federal award; and
- Other activities exempted from the definition of lobbying or influencing legislation, such as (i) nonpartisan analysis, study, or research reports, and examinations; (ii) discussions of broad social, economic and similar problems; or (iii) information provided upon request by a legislator for "technical advice and assistance"<sup>3</sup>.

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<sup>1</sup> Under this exception, the costs for travel, lodging or meals are unallowable under OMB Cost Principles unless they are incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting the hearings. *See* [2 C.F.R. §200.450\(c\)\(2\)\(i\)](#).

<sup>2</sup> However, because of the specific restrictions in the National and Community Service Act of 1990, these activities cannot be performed by AmeriCorps members.

<sup>3</sup> The term "technical advice and assistance" is specifically defined by section 4911(d)(2) of the Internal Revenue Code and 26 CFR 56.4911-2(c)(1)-(c)(3).

Because costs to visit elected officials are allowable under very limited circumstances, the wise course is to seek guidance from your CNCS program officer or grants officer in advance.

**I work for a state or local government agency that receives CNCS grant funds. What are the restrictions on legislative lobbying under our CNCS grant awards?**

The OMB Cost Principles (2 CFR Part 200, Subpart E) do not explicitly prohibit state and local governments from charging costs associated with influencing the enactment or modification of any pending federal or state legislation, or legislative liaison activities. However, costs charged to CNCS grants to state or local agencies are subject to the same threshold considerations discussed in the context of trips to visit elected officials above. You should direct any specific question on this point to your CNCS program officer or grants officer.

In addition, you should remember that the broader restrictions on lobbying activities for non-profit organizations and institutions of higher education will apply to sub-awards that are made by states or local governments.

Finally, there may be laws specific to your State or local government which limit your lobbying activity. You should check to make sure you are aware of all applicable restrictions.

**I periodically travel to Washington, D.C., my state capitol or elsewhere to educate our elected officials about our organization's achievements. What happens if CNCS determines that the costs of my visits are not reasonable and necessary expenses for the performance of our grant award?**

If CNCS determines that the costs are not reasonable and necessary under the OMB Cost Principles, the costs would be disallowed as expenses charged to the grant award, and your organization would not be reimbursed for them. This could result in your organization having to return funds to CNCS.

**While I am in Washington, D.C. attending a grant-related conference, and the cost of the travel is being charged to my federal grant, can I visit my elected officials during a break in the conference?**

Yes, so long as such a visit is incidental to your primary purpose in traveling to Washington, D.C. But don't charge the cab fare to your grant!

**Can I lobby on issues related to national service and/or CNCS's programs when I am not on "CNCS time"?**

Yes. The restrictions on lobbying only apply to the use of Federal award funds (including matching funds). However, you must document that any lobbying is done during the time that is not charged to your CNCS grant, and that your lobbying activities are not part of the CNCS-funded program.

**If a particular activity is not specifically disallowed under the OMB Cost Principles (2 C.F.R. Part 200, Subpart E) or under grant terms, does that mean the cost is allowed?**

Not necessarily. While OMB's Cost Principles (found in [2 C.F.R. Part 200, Subpart E](#)) set both general and certain specific criteria for when costs are allowable, they do not authorize any specific cost or expenditure; they merely limit the allowability of types of costs or expenditures. The burden is on the recipient to demonstrate that any particular cost is allowable according to the factors listed at 2 C.F.R. §200.403. This means that the recipient must be able to show that the cost is consistent with the approved budget and properly chargeable to the grant as reasonable and necessary—not merely that it is not on the list of disallowed costs. Allowability is ultimately a determination made by CNCS.

**I work for a non-profit organization that is an AmeriCorps VISTA sponsor. Doesn't the Domestic Volunteer Service Act give programs, in certain limited circumstances, specific statutory authority to lobby concerning appropriations or authorization legislation?**

You are right about the authority in the DVSA as it applies to both VISTA sponsors and Senior Corps grantees. But DVSA programs are currently subject to a superseding proviso in their annual appropriations statute which prohibits the use of appropriated funds to engage in any activity that is designed to influence legislation or appropriations pending before the Congress, any State legislature, or local legislative body.

**I am a Project Director at a Senior Corps sponsor organization, and my annual salary at the organization is paid with CNCS Senior Corps grant funds. May I, as part of my official duties, post a communication on my organization's social media site encouraging the local community to contact members of the state legislature to pass legislation that would expand and benefit our organization's vital programs?**

No, neither you, nor any other grant-funded staff of your organization, nor any Senior Corps volunteers may post communications on your organization's social media site that constitute lobbying. As discussed above, Senior Corps volunteers and grant-funded staff are strictly prohibited from engaging in lobbying as part of their service or grant-funded activity. CNCS funds may not be used to engage in any lobbying activities. Lobbying includes an attempt to influence the decision-making of an elected official on a legislative and a request for others to contact an elected official in support of or opposition to a legislation. Therefore, posting a communication on your organization's social media site encouraging members of the local community to contact members of the state legislature to pass legislation clearly constitutes lobbying, and, for the reasons discussed above, is prohibited.

**QUESTIONS APPLICABLE TO STATE SERVICE COMMISSIONERS**

**I am the Executive Director of my State's Commission on National and Community Service. Can I lobby on issues related to national service or CNCS programs?**

The OMB Cost Principles (2 CFR Part 200, Subpart E) do not explicitly prohibit state and local governments from charging costs associated with influencing the enactment or modification of any pending federal or state legislation, or legislative liaison activities. However, all costs charged to CNCS awards must still be reasonable and necessary for the performance of your CNCS award and be allocable to the award under OMB Cost Principles. As discussed above, the burden is on your organization to demonstrate that any particular cost is allowable according to the factors listed at 2 C.F.R. § 200.403, and CNCS makes the ultimate determination. You should direct any specific question on this point to your CNCS program officer or grants officer.

**I have been appointed by the Governor of my State as a member of my State's Commission on National and Community Service. Can I lobby on issues related to national service or CNCS programs?**

Yes, you can contact Congress to lobby for CNCS programs and funding so long as you are not receiving any federal travel expense reimbursements or per diem for your service as a member of a State Commission, and not charging your time to any federal award. You are also free to ask others to do so as well.

However, at any time when you are being reimbursed for travel expenses (including per diem) for your service as a member of a State Commission, you are subject to the restrictions on state and local government employees (as discussed above), and you may not ask others to contact Congress to support CNCS programs.

## **QUESTIONS APPLICABLE TO AMERICORPS STATE AND NATIONAL MEMBERS, VISTA MEMBERS, AND SENIOR CORPS VOLUNTEERS**

**Can an AmeriCorps member or a Senior Corps volunteer be part of a group that makes a trip for a meeting with elected officials so long as the member only gives an informational or factual presentation on topics related to the performance of a grant?**

Maybe. Like the other trips discussed above, the threshold issue is whether the costs of the trip would be reasonable and necessary for the performance of your CNCS award and be allocable to the award under OMB Cost Principles (2 C.F.R. Part 200, Subpart E). If the cost of the trip is generally allowable, then an AmeriCorps member or a Senior Corps volunteer may present information about their programs, projects, and impact stories with elected officials.

However, the National and Community Service Act of 1990 (NCSA) prohibits the “use” of AmeriCorps State and National members in any attempt to influence legislation, and the Domestic Volunteer Service Act of 1973 (DVSA) prohibits AmeriCorps VISTA members and Senior Corps volunteers from being used to influence the passage or defeat of legislation or proposals. Even if the AmeriCorps member or the Senior Corps volunteer is not on “on duty” (i.e., not accumulating service or training hours, or not receiving a stipend) and only provides a factual presentation about the impact of their service, their participation in a meeting where prohibited lobbying activity occurs will be in violation of the NCSA or the DVSA.

**When does “lobbying activity” occur in a meeting with elected officials, and how can I make sure that it does not happen in a meeting involving AmeriCorps members or Senior Corps Volunteers?**

“Lobbying activity” occurs during a meeting if someone presents to an elected official (or the elected official’s staff) a request to take legislative action or a statement intended to influence a legislative action. It makes no difference whether the statements are made orally or presented (or left behind) in writing. It also makes no difference whether the statements are in support of or oppose the legislation at issue.

**Can we as an organization have our AmeriCorps members or Senior Corps volunteers describe the importance and impact of their service and also engage in “lobbying activity” (which is not being charged to the grant) and not violate the restrictions in the NCSA or DVSA?**

As a general rule, your organization cannot direct or arrange for an AmeriCorps member or Senior Corps volunteer to engage in lobbying activity even if such activity is done in the context of describing the importance and impact of service and even if the activity is not being charged to the grant. However, CNCS will not consider an AmeriCorps member or Senior Corps volunteer as having been used to influence legislation (i.e., not engaged in lobbying activity), if their factual presentations are sufficiently distinct—*such as being at separate times or locations*—from any associated lobbying activity that they are not a part of. The facts and circumstances of the presentations and the lobbying activities must allow a reasonable person to conclude that the factual presentations by the AmeriCorps members or Senior Corps volunteer were not solely or specifically intended to influence specific legislative decision-making, and the AmeriCorps members and Senior Corps volunteers did not participate in any lobbying activity.

**In regard to Senior Corps volunteers and VISTA members, doesn’t the DVSA give programs specific statutory authority to an organization to lobby, under limited circumstances, concerning appropriations or authorization legislation?**

No, not in practice. You are right about the authority in the DVSA, but DVSA programs are currently subject to a superseding annual appropriations statute which prohibits the use of appropriated funds to engage in any activity that is designed to influence legislation or appropriations pending before the Congress or any State legislature.

**As an AmeriCorps member or Senior Corps Volunteer, am I barred from conducting any lobbying whatsoever?**

No, you are not. AmeriCorps members and Senior Corps volunteers may exercise their rights as private citizens on their own time and may ask elected officials to either support or oppose legislative actions. However, you must engage in those activities at your own initiative, and cannot conduct the activities while performing your service as a member or volunteer or by using CNCS funds. You should also not wear any AmeriCorps or Senior Corps logo while doing so.